



House of Representatives

General Assembly

File No. 825

January Session, 2005

Substitute House Bill No. 6773

House of Representatives, June 1, 2005

The Committee on Energy and Technology reported through REP. FONTANA of the 87th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING CLEAN AIR STRATEGIES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective from passage*) (a) For purposes of this
2 section, "outdoor wood-burning furnace" means an accessory structure
3 or appliance designed to be located outside living space ordinarily
4 used for human habitation and designed to transfer or provide heat,
5 via liquid or other means, through the burning of wood or solid waste,
6 for heating spaces other than where such structure or appliance is
7 located, any other structure or appliance on the premises, or for
8 heating domestic, swimming pool, hot tub or jacuzzi water. "Outdoor
9 wood-burning furnace" does not include a fire pit, wood-fired
10 barbecue or chiminea.

11 (b) No person shall, from the effective date of this section to the
12 effective date of regulations promulgated by the United States
13 Environmental Protection Agency to regulate outdoor wood-burning

14 furnaces, construct, install, establish, modify, operate or use an
15 outdoor wood-burning furnace, unless (1) the outdoor wood-burning
16 furnace was constructed, installed, established, modified, operated or
17 in use prior to the effective date of this section, or (2) the outdoor
18 wood-burning furnace complies with the following:

19 (A) Installation of the outdoor wood-burning furnace is not less
20 than two hundred feet from the nearest residence not serviced by the
21 outdoor wood-burning furnace;

22 (B) Installation of the chimney of the outdoor wood-burning furnace
23 is at a height that is more than the height of the roof peaks of the
24 residences that are located within five hundred feet of the outdoor
25 wood-burning furnace, which residences are not serviced by the
26 outdoor wood-burning furnace, provided the chimney height is not
27 more than fifty-five feet;

28 (C) No other materials are burned in the outdoor wood-burning
29 furnace other than wood that has not been chemically treated; and

30 (D) Installation and operation of the outdoor wood-burning furnace
31 is in accordance with the manufacturer's written instructions, provided
32 such instructions do not conflict with the provisions of this section.

33 (c) The provisions of this section shall be enforced by the
34 Commissioner of Environmental Protection and may be enforced by
35 the municipality affected by the operation or potential operation of an
36 outdoor wood-burning furnace.

37 (d) Any person who operates an outdoor wood-burning furnace in
38 violation of this section shall be deemed to have committed an
39 infraction and shall be fined not more than ninety dollars. Each day of
40 operation of such outdoor wood-burning furnace in violation of this
41 section shall be a separate violation.

42 Sec. 2. Section 22a-174j of the general statutes is repealed and the
43 following is substituted in lieu thereof (*Effective October 1, 2005*):

44 Not later than May 1, 2006, the Department of Public Utility Control
45 shall complete an investigation of the potential impact on electric
46 reliability and electric rates created by promulgation of the regulations
47 under this section. If such investigation concludes that there is no
48 negative impact on such reliability and rates, not later than [January 1,
49 1999] July 1, 2006, the Commissioner of Environmental Protection
50 shall, in conjunction with the Department of Public Utility Control and
51 by regulations adopted in accordance with chapter 54, establish
52 uniform emissions performance standards [for electricity generation
53 facilities supplying power] to regulate emissions to the air from the
54 generation of electricity supplied to end use customers in this state.
55 Such performance standards shall, to the greatest extent possible, be
56 designed to improve air quality in this state and to further the
57 attainment of the National Ambient Air Quality Standards
58 promulgated by the United States Environmental Protection Agency.
59 Such performance standards shall [be based on the fuel used for
60 generation of electricity and shall apply to electric suppliers'
61 generation facilities located in North America] apply to emissions
62 caused by electricity generation in any location in North America used
63 to supply end use customers in this state, shall limit emissions to levels
64 consistent with those permitted from technically similar generators
65 located in this state and shall limit the amount of air pollutants,
66 including, but not limited to, nitrogen oxides, sulfur oxides [,] and
67 carbon dioxide [, carbon monoxide and mercury,] emitted per
68 megawatt hour of electricity produced. Such performance standards
69 may provide for a program for purchase of offsetting reductions in
70 emissions and trading of emission credits. [A performance standard
71 established by the Department of Environmental Protection for an
72 individual pollutant pursuant to this section shall go into effect when
73 three of the states participating in the northeastern states' Ozone
74 Transport Commission as of July 1, 1997, with a total population of not
75 less than twenty-seven million at that time, have adopted such
76 standard.]

This act shall take effect as follows and shall amend the following sections:		
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Section 1	<i>from passage</i>	New section
Sec. 2	<i>October 1, 2005</i>	22a-174j

ET *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 06 \$	FY 07 \$
Department of Environmental Protection	GF - Cost	Minimal	Minimal
Public Utility Control, Dept.	CC&PUCF - Cost	None	None
Judicial Dept.	GF - Revenue Gain	Less than \$10,000 annually	Less than \$10,000 annually

Note: GF=General Fund; CC&PUCF=Consumer Counsel and Public Utility Control Fund

Municipal Impact:

Municipalities	Effect	FY 06 \$	FY 07 \$
Various Municipalities	Cost	Potential Minimal	Potential Minimal

Explanation

It is anticipated that the Department of Environmental Protection (DEP) can enforce the restrictions on outdoor wood burning furnaces within normal budgetary resources. The restrictions provide a regulatory framework and a means to address complaints in a single inspection.

The bill requires the Department of Public Utility Control (DPUC) to complete an investigation of the potential impact on electric reliability and electric rates. It is anticipated that this investigation will result in a workload increase, which can be handled within available agency resources.

Authorizing the DEP, in conjunction with the DPUC to implement uniform pollutant emission performance standards can be handled within existing resources. Regulations have already been processed by the DEP, and there are only a small number of regulated entities.

Any revenue gain under the bill's infractions is expected to be minimal.

Since municipal enforcement of the restrictions on outdoor wood burning furnaces is discretionary, it is likely they will be enforced when resources permit. It is anticipated that mobile idling complaints are infrequent, and municipalities can enforce these provisions within resources.

OLR Bill Analysis

sHB 6773

AN ACT CONCERNING CLEAN AIR STRATEGIES**SUMMARY:**

This bill:

1. bans the installation or operation of outdoor wood-burning furnaces unless they meet certain requirements, and makes operating a furnace in violation of these restrictions an infraction;
2. eliminates a requirement that the Department of Environmental Protection (DEP) commissioner set emissions standards for carbon monoxide and mercury for power plants serving the state, whether they are located in Connecticut or elsewhere in North America; and
3. changes the circumstances in which DEP can implement such standards for other pollutants.

EFFECTIVE DATE: October 1, 2005, except for the provision concerning wood-burning furnaces, which takes effect upon passage.

OUTDOOR WOOD-BURNING FURNACES

Under the bill, an outdoor wood-burning furnace is an accessory structure or appliance designed (1) to be located outside living space ordinarily used for human habitation and (2) to transfer or provide heat, through liquid or other means, through the burning of wood or solid waste for heating spaces (other than where the furnace is located) to any other structure or appliance on the premises, or for heating domestic water, or water used in a swimming pool, hot tub, or Jacuzzi. A furnace does not mean a fire pit, wood-fired barbecue, or decorative fireplace ("chiminea").

The bill prohibits anyone from building, installing, establishing, modifying, operating, or using a furnace from the date of the bill's

passage until U.S. Environmental Protection Agency (EPA) regulations governing furnaces take effect. Outdoor wood-burning furnaces built or in use before the bill's passage are exempt, as are furnaces that:

1. are installed at least 200 feet from the nearest home not heated by the furnace;
2. have a chimney shorter than 55 feet but at least as tall as the roof peaks of homes (a) located within 500 feet of the furnace, and (b) not heated by it;
3. burn only wood that has not been chemically treated; and
4. are installed and operated according to the manufacturer's written instructions, provided the instructions comply with the bill.

Anyone who operates a furnace in violation of the bill commits an infraction, punishable by a fine of up to \$90. Each day of operation is considered a separate violation. The bill requires the DEP commissioner to enforce its provisions, and authorizes the town affected by a furnace's operation or potential operation to enforce them.

EMISSION STANDARDS

By law, DEP had to adopt, by regulation, pollutant emission performance standards for electric generators supplying power to state end-use customers by January 1, 1999. Current law requires the performance standards to (1) be based on the fuel used to generate electricity and (2) apply to generation facilities located in North America. The standards would apply to such pollutants as nitrogen oxides, sulfur oxides, carbon dioxide, carbon monoxide and mercury. Under current law, the standards for a particular pollutant take effect when such a standard is adopted by three states (1) taking part in the northeastern states' Ozone Transport Commission as of July 1, 1997 and (2) with a total population of at least 27 million.

The bill modifies the requirements for the standards, and requires the Department of Public Utility Control (DPUC) to investigate whether these standards will have a negative impact on electric reliability and rates. The DPUC must complete its investigation by May 1, 2006. If the

study does not find a negative impact, the DEP commissioner, in conjunction with DPUC, must adopt the standards the bill requires, by regulation, by July 1, 2006.

The bill requires the performance standards to apply to emissions caused by electricity generated anywhere in North America used to supply Connecticut end-users. It requires that the standards limit emissions to levels consistent with those permitted from technically similar generators in Connecticut. The bill removes the requirement that the DEP commissioner set emission standards for carbon monoxide and mercury, but she must continue to establish the standards for limiting air pollutants that include nitrogen oxides, sulfur oxides, and carbon dioxide. It permits DEP to implement a standard for a particular pollutant without waiting for other states to adopt one.

BACKGROUND

Legislative History

On April 19, the House referred the bill (File 373) to the Judiciary Committee, which favorably reported a substitute bill on April 26, eliminating a provision affecting the idling of mobile sources. On May 10, the House referred the bill (File 724) to the Transportation Committee, which reported it favorably on May 11. On May 17, the House referred the bill to the Energy and Technology Committee, which, on May 23, favorably reported a substitute bill requiring the DPUC study of electric reliability and rates.

COMMITTEE ACTION

Environment Committee

Joint Favorable Substitute

Yea 26 Nay 2

Judiciary Committee

Joint Favorable Substitute

Yea 39 Nay 0

Transportation Committee

Joint Favorable Report
Yea 30 Nay 0

Energy and Technology Committee

Joint Favorable Substitute
Yea 12 Nay 5